

DIST/OFFICE	DOCKET YR. NUMBER	FILING DATE MO. DAY YEAR	J	N/S	O	R	R 23	DEMAND \$ 23	OTHER	JUDGE NUMBER	JURY DEM.	DOCKET YR. NUMBER
1085/4	76	0595	11	24	76	3	890	1		8510	P	76 0595-C

PLAINTIFFS

DEFENDANTS

DONAL E. WOFFORD

WAYNE M. SMITH, BEN W. DEAN,
DALE M. SMITH, BETTY I. STEPANEK,
CLAUDE W. PEAKE, ROUNDS & PORTER
PROFIT SHARING PLAN AND TRUST and
ROUNDS & PORTER LUMBER COMPANY,
INC.

CAUSE

Action under 29 USC §1132 (e)(1) by an employee against his former employer, his former employer's profit sharing plan, the members of the advisory committee of said profit sharing plan and the trustee of said plan to properly distribute the employee's vested account balance in said employer's profit sharing plan.

Thomas P. Nally
Ted M. Riseling
124 East 4th Street
Tulsa, Oklahoma 74103
584-5182

ATTORNEYS Bob Craine
Sidney G. Dunagan (all defts.)
2010 Fourth Natl. Bank Bldg.
Tulsa, Okla. 74119 582-9201

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HERE
IF CASE WAS
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DATE

RECEIPT NUMBER

C.D. NUMBER

STATISTICAL CARDS

CARD DATE MAILED
JS-5 12-1-76
JS-6 06-22-78

DATE 1976	NR.	PROCEEDINGS
11-24	1.	Complaint, filed, w/DEMAND FOR JURY TRIAL. Summons issued. ph
12-14	--	Summons, ret & filed: Served Ben W. Dean by serving Wayne Smith on 11-26-76 at Wichita, Kansas; Served Rounds & Porter Profit Sharing Plan and Trust by serving Wayne Smith on 11-26-76 at Wichita, Kansas; Served Betty I. Stepanek by serving Wayne Smith on 11-26-76 at Wichita, Kansas; Served Dale M. Smith by serving Wayne Smith on 11-26-76; Served Rounds & Porter Lumber Co., Inc. by serving William D. Curlee, Reg. Agent on 11-29-76 at OKC; Served Wayne M. Smith on 11-26-76 at Wichita, Kansas; Served Claude W. Peake on 12-7-76 at Wichita, KS; (USM \$28.36)ph
12-16	2.	Defts' mo/dismiss, mo/strike, mo/change venue & motion for S/J, filed. hm
12-16	3.	Brief in support of above motions, filed. hm
12-16	4.	Affidavits in support of above motions, filed. hm
12-16	MO:	Pltf. directed to file response within 10 days to the defts' mo/dismiss mo/strike, mo/change venue & motion for S/J. (HDC-J)hm
12-22	5.	Plaintiff's first interrogatories to the defendants, filed. rm
12-22	6.	Motion for enlargement of time of pltf. to respond to defs. mo/dismiss, mo/strike, mo/change venue and mo/SJ, filed. rm
12-22	7.	Order, filed, granting pltf. to 1/26/77 to file response to defs. mo/dismiss, mo/strike, mo/change of venue and mo/SJ. (HDC-J)rm-copies mailed
1-21-77	8.	Answers and objs. to pltf.'s first interrog. to defs., filed. rm
1-21	9.	Brief in support of objs., filed. rm
1-26	10.	Motion of pltf. for ext. of time to resp. to defts' motion/dismiss, motion/strike, motion/change venue, and mo/SJ, filed. ph (O to J)
1-26	11.	Order, filed, granting pltf. until 1-31-77 to resp. to defts' mo/dismiss, mo/strike, mo/change venue and mo/SJ. (HDC-J)ph cps mld
1-27	12.	Appl. of pltf. to enter as addl. atty of record for pltf., filed. rm
1-27	13.	Order, filed, that Thomas P. Nally may enter as addl. atty for pltf. (HDC-J)rm-copies mailed
1-31	14.	Pltf's brief in oppos. to defts' mo/strike exhibits "B" and "C" in the Complaint, filed. ph
1-31	15.	Pltf's stipulation as to Wayne M. Smith's mo/SJ, filed. ph
1-31	16.	Pltf's brief in oppos. to defts' motion to dismiss, filed. ph
1-31	17.	Pltf's brief in oppos. to defts' motion to dismiss for improper venue and in oppos. to defts' motion to change venue, filed. ph
2-11	18.	Pltf's first request for admissions to the deft. Rounds & Porter Lumber Co, filed. ph
2-11	19.	Pltf's first request for admissions to deft. Rounds & Porter Profit Sharing Plan & Trust, filed. ph
2-11	20.	Pltf's first request for admissions to the deft. Betty I. Stepanek, filed. ph
2-11	21.	Pltf's first request for admissions to the deft. Dale M. Smith, filed. ph
2-11	22.	Pltf's first request for admissions to the deft. Ben W. Dean, filed. ph
2-11	23.	Pltf's first request for admissions to deft. Claude W. Peake, filed. ph
2-11	24.	Pltf's second interros. to defts. Ben W. Dean, Dale M. Smith, Betty I. Stepanek, Claude W. Peake, Rounds & Porter Profit Sharing Plan and Trust and Rounds & Porter Lumber Company, filed. ph
3-14	25.	Response of Dale M. Smith to pltf's req. for admissions, filed. hm
3-14	26.	Response of Ben W. Dean to pltf's req. for admissions, filed. hm

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>76-C-595-C</u>
Donal E. Wofford		Ben W. Dean, et al.	PAGE <u>3</u> OF <u>2</u> PAGES
DATE	NR.	PROCEEDINGS	
3-14	27.	Response of Betty I. Stepanek to pltf's req. for admissions, filed.hm	
3-14	28.	Response of Claude W. Peake to pltf's req/. for admissions,filed.hm	
3-14	29.	Response of Rounds Profit Sharing Trust to pltf's req. for admis- sions, filed. hm	
3-14	30.	Response of Rounds & Porter Lumber Co., Inc. to pltf's req. for ad- missions, filed. hm	
3-14	31.	Answers & obj. to pltf's second interrog. to defts. Dean, et al, filed. hm	
3-23	32.	Order, filed and entered, that deft. Wayne M. Smith's mo/SJ is sustained; defts' motion to strike is overruled; motion to change venue is overruled; defts' mo/dismiss is based upon two grounds. The first is that suit was brought in wrong district because pltf. alleges the breach occurred in Tulsa, while defts. contend the site of the breach was Wichita, Kansas; venue in this judicial dist. is proper, and defts' mo/dismiss on that ground is overruled. Second basis for defts' mo/dismiss is that complaint fails to state claims upon which relief can be granted. Parties are given 10 days from this date to present to the Court all materials made pertinent to mo/SJ under Rule 56. (HDC-J)ph cps mld	
4-4	33.	Pltf's brief in oppos. to defts' mo/SJ, filed. ph	
4-7	34.	Pltf's motion for S/J on his first claim for relief and mo/partial S/J on his second claim for relief, filed. ph	
4-7	35.	Brief in support of pltf's motion for S/J on his first claim for relief and motion for partial summary judgment on his second claim for relief, filed. ph	
4-11	MO:	It is ordered by the Court that the deft. file a resp. brief within 10 days to the pltf's motion for summary judgment on his first claim for relief and motion for partial S/J on his second claim for relief. (HDC-J)ph cps mld	
4-18	36	Mot. of defts. for ext. of time to respond to pltf's mots. for S/J on 1st & 2nd claims for relief, filed. g	
4-18	37	Order, filed, granting defts. until 5-2-77 to file responsive brief. (HDC-J)g cps mld.	
5-2	38.	Defts' brief in oppos. to pltf's mo/SJ on his first claim for relief and motion for partial S/J on his second claim for relief, filed. ph	
5-2	39.	Affidavit of Robert E. Craine, Jr., in oppos. to pltf's motion/SJ on his first claim for relief and motion for partial S/J on his second claim for relief, filed. ph	
5-2	40.	Affidavit of Claude W. Peake in oppos. to pltf's motion for S/J, filed. ph	
5-9	41.	Pltf. reply brief to defts. brief in opp. to pltf. mo/SJ,filed.rm(per	
8-3	MO:	Case set for hearing on defts' motion for S/J and pltf's motion for S/J on his first claim for relief & mo/partial S/J on his second claim for relief on 8-24-77 at 11:30 a.m. (HDC-J)hm (notices mailed)	
8-24	MO:	Hearing held on defts' motion for S/J and pltf's motion for S/J on his first claim for relief & mo/partial S/J on his second claim for relief. Statements made. As to first cause of action, pltf's and defts' motion for S/J are held in abeyance pending filing of factual stip. within 10 days. As to second cause of action, pltf's and defts' mo. for S/J is overruled. (HDC-J)hm	

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>76-C-595</u> -C
Donal E. Wofford		Wayne M. Smith, et al	PAGE <u>4</u> OF <u>2</u> PAGES
DATE	NR.	PROCEEDINGS	
1977			
9-9	42	Stipulation of fact. fld. ho	
9-9	43	Submission of stipulation. fld. ho	
11-23	44.	Order, filed, overruling pltf's motion for summary judgment as to his first claim for relief & sustaining defts' motion for summary judgment as to plaintiff's first claim for relief. (HDC-J)hm (copies mailed)	
12-6	45.	Answer of defts. Dean, Smith, Stepanek, Peake, Rounds Profit Sharing Plan & Rounds & Porter Lumber Co. to pltf's second claim for relief, filed. hm	
1-3-78	MO:	Case set for PT hrg. 3-7-78 at 10:30 a.m.; disc. to be complete by 2-24; PT memo or order to be filed by 2-28. (HDC-J)hm	
1-13	MO:	Case set for JURY TRIAL 7-10-78 at 9:30 a.m.; trial briefs, req. instr. & req. voir dire due 6-30-78. (HDC-J)hm (notices mailed)	
2-22	MO:	<u>CASE RESET FOR PT HRG. 3-6-78 at 10:30 a.m.</u> (HDC-J)hm	
3-3	46.	Pre-trial order, filed. (HDC-J)ph	
3-6	MO:	Pre-trial hrg. held. Statements made. Parties to file stip. of facts within 30 days & specify facts in controversy. Pltf. to advise Court within 5 days as to jury question; deft. 5 days thereafter to respond. JURY TRIAL heretofore set 7-10-78, & case will be reset for NON-JURY trial, if parties waive jury. (HDC-J)hm	
3-13	47.	Pltf's motion to withdraw request for trial by Jury, filed. ph	
3-15	48.	Consent of Defts. to non-jury trial, filed. g	
3-17	--	Reporter's transcript of proceedings had on 3-6-78, pretrial conf., filed. ph	
3-20	MO:	<u>CASE SET FOR NON-JURY TRIAL 6-8-78 at 9:30 a.m.</u> ; trial briefs & sugg. F/F & C/L due 5-26-78. (HDC-J)hm (notices mailed)	
4-11	49.	Pltf's appl. for ext of time to file stip. of facts, filed.ph (O to J)	
4-11	50.	Order, filed, granting parties to 4/28/78 to file agreed stip. of facts.(HDC-J)rm-copies to movant	
4-28	51.	Stipulation of Facts, filed. rm	
5-11	---	Deposition of Donal Eugene Wofford, on behalf of defts., taken on 2/17/78, filed. (\$84 pd by defts)rm	
5-30	52.	Defts' proposed Findings of fact and conclusions of law, filed. ph	
5-30	53.	Trial brief of defts., filed. ph	
5-30	54.	Trial brief, suggested Findings of fact, conclusions of law, filed by pltf. ph	
5-31	55.	Appendix to defts' trial brief, filed. hm	
6-8	MO:	Case tried to the Court. Rule invoked. Pltf. makes opening statement. Deft. waives same. Pltf. presents case in chief w/test. of witnesses & introd. of exhibits. Pltf. also offers depos. of Ben W. Dean, Claude Peake & Betty Stepanek into evid., & they are admitted subj. to obj. made in depos. Court to use originals when they are filed. Pltf. rests. Deft's mo/dismiss & for judgment at close of pltf's case filed in open Court & denied. Deft. presents case in chief w/offer of dep. of Dale M. Smith & it is admitted. Parties to advise Court if any dispute over Mr. Smith's test. arises after orig. depo. is signed. Deft. reads	

CIVIL DOCKET CONTINUATION SHEET

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PLAINTIFF		DEFENDANT	DOCKET NO. <u>76-C-595</u> -C
Donal E. Wofford		Wayne M. Smith	PAGE <u>5</u> OF <u>3</u> PAGES
DATE	NR.	PROCEEDINGS	
6-8		portions of depos. of Donal E. Wofford. Deft. rests. Pltf. presents rebuttal evid. w/test. of witness & rests. Parties rest. Court recessed until 2:30 p.m. 6-9-78 for final arguments. (HDC-J)hm	
6-8	56.	Defts' mo/dismiss and for judgment at close of pltf's case, filed in open court. hm (overruled at trial)	
6-9	MO:	Case called for closing arguments. Counsel announce ready. Closing Arguments had. Ct. makes oral FF/CL and finds in favor of deft. and against pltf. Deft. counsel directed to prepare final judg. within 10 days. (HDC-J)rm	
6-14	--	Deposition of Dale M. Smith, on behalf of pltf., taken 5/11/78, filed. (\$52.60 pd by pltf)rm	
6-14	--	Depositions of Claude W. Peake, Betty I. Stephanek and Ben W. Dean, on behalf of pltf., taken 5/11/78, filed. (\$134.00 pd by pltf)rm	
6-15	--	Reporter's partial transcript of proceedings had on 6-9-78, Ruling, filed. ph	
6-15	57.	Bill of costs, filed by deft., setting hearing before the Clerk on 6-22-78 at 10:00 a.m. ph	
6-16	58.	Motion by defts. to allow reasonable atty. fee, filed. rm	
6-16	59.	Brief in support of mo/allow atty. fee, filed. rm	
6-16	MO:	Ordered by the Court that pltf's. are granted 10 days from this date to respond to defts. mo/allow reasonable atty. fee. (HDC-J)rm-letter	
6-20	60.	Judgment, filed and entered, that judgment be entered in behalf of the defts. and against the pltf. (HDC-J)ph cps mld	
6-22	Min:	Cost hrg. set for this date before Clerk is stricken pending stip. by parties of waiver of costs & waiver of appeal. (JCS-Clk)rm	
6/23	61.	Joint Stip. of Waiver of Right to Appeal and Waiver of Defts.' Claim for Costs, fld. v (o)	
6/23	62.	Order, fld., that the Stip. of Parties is approved and that ea. party shall bear their own costs and atts.' fees. (HDC-J)v -atty mld cps.	

PLAINTIFF		DEFENDANT	DOCKET NO. _____
			PAGE ____ OF ____ PAGES

DATE	NR.	PROCEEDINGS
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